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October 15, 2015

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Notice of Ex Parte Presentation,  
CC Docket No. 01-92, WC Docket Nos. 10-90 and 14-228**

Dear Ms. Dortch:

On October 13, 2015, representatives of a broad coalition of local exchange carriers (collectively, the “LEC Coalition”)<sup>1</sup> met with the Commission staff copied below.<sup>2</sup> The LEC Coalition representatives included: Tim Boucher of the CenturyLink LECs (participating via telephone), Jennifer Prime of Cox Communications, Terri Natoli of Time Warner Cable, Edward Krachmer of Windstream (participating via telephone), Malena Barzilai of Windstream, Yaron Dori of Covington & Burling LLP and Michael Pryor of Cooley LLP (as outside counsel to the CenturyLink LECs), and the undersigned (as outside counsel to Cox Communications, Frontier Communications, LICT Corp., Time Warner Cable, and Windstream).

As we have explained previously, the substantive issues addressed in the Petition for Declaratory Ruling and reply comments filed by the LEC Coalition in this proceeding lie at the center of scores of lawsuits that have been consolidated in a multidistrict litigation proceeding in the U.S. District Court for the Northern District of Texas. The October 13, 2015 meeting focused on the recent oral argument held in connection with that litigation and the motion to dismiss filed by the defendants in the consolidated lawsuits (including members of the LEC Coalition). The attached set of demonstratives, which were used by the defendants during that oral argument, and the transcript of that argument, previously filed in the docket, formed the basis for the LEC Coalition’s discussion with Commission staff. The LEC Coalition also referenced its positions of record and stressed the need for the Commission to act expeditiously

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<sup>1</sup> A complete list of the entities included in and represented by the LEC Coalition can be found in the Petition for Declaratory Ruling filed on November 10, 2014 in the above-referenced proceeding.

<sup>2</sup> Douglas Slotten participated via telephone.

LATHAM & WATKINS<sup>LLP</sup>

to resolve the matters addressed in its Petition, regardless of the outcome of the ongoing litigation.

Please contact the undersigned should you have any questions regarding this submission.

Respectfully submitted,

/s/ Matthew A Brill  
Matthew A. Brill  
Jarrett S. Taubman

cc: Pamela Arluk  
Victoria Goldberg  
Rhonda Lien  
Joe Price  
Deena Shetler  
Douglas Slotten  
Stephanie Weiner

**LEC Defendants  
Demonstratives & Slides**

**As Used in  
September 18, 2015 Oral Argument on  
Defendants' Joint Rule 12(b)(6)  
Motion To Dismiss in MDL**

## Regulation—47 C.F.R. §§ 69.2(b) & 69.5(b)

### § 69.2 Definitions.

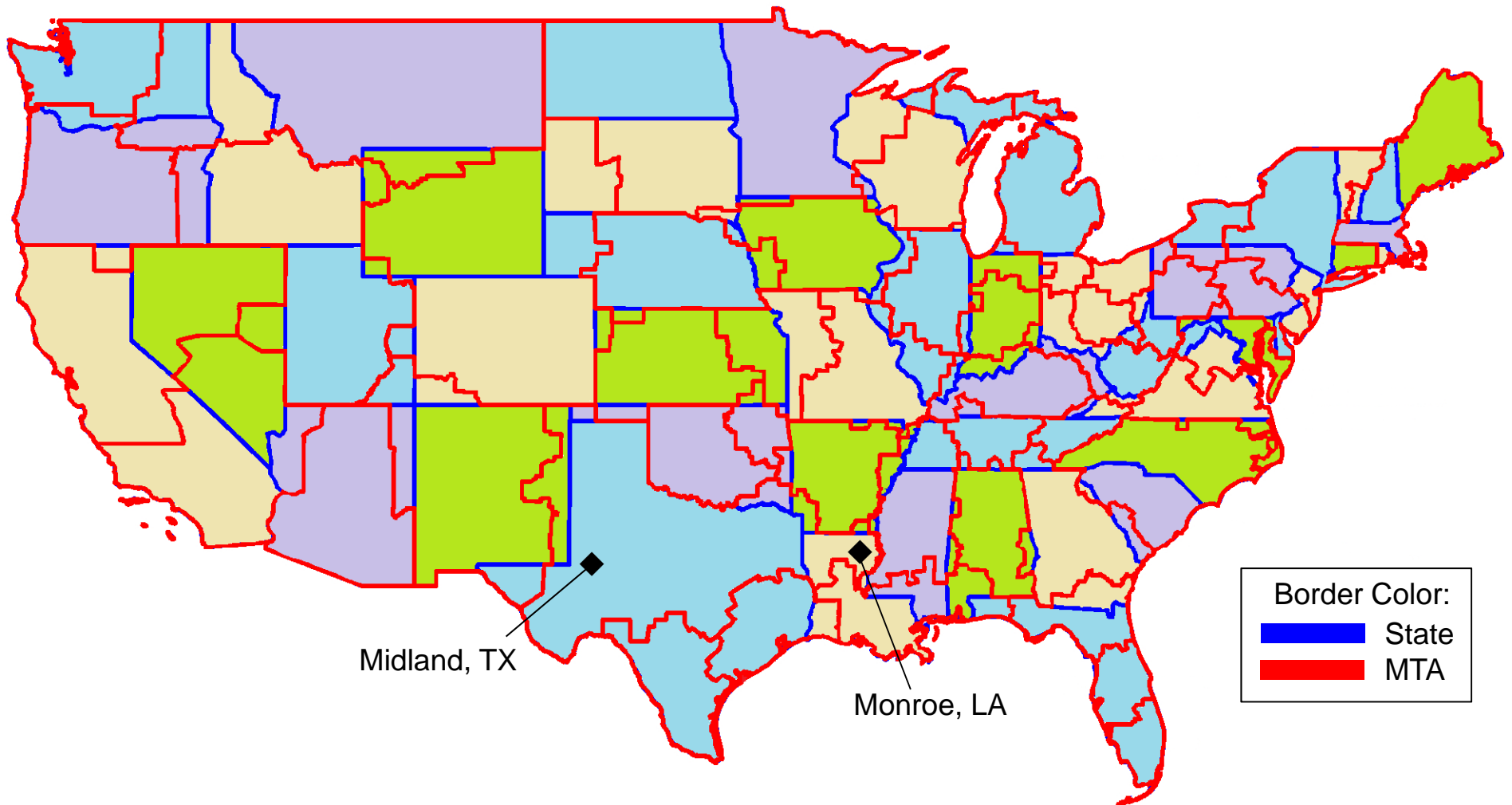
For purposes of the part:

(b) *Access service* includes services and facilities provided for the origination or termination of any interstate or foreign telecommunication.

### § 69.5 Persons to be assessed.

(b) Carrier's carrier charges shall be computed and assessed upon all inter-exchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services.

# The 51 Major Trading Areas (MTAs)



Continental US only shown.  
Source: Sprint Complaints, Exhibit 1.

## U.S. Code—47 U.S.C. § 251(g)

### § 251. Interconnection

#### (g) Continued enforcement of exchange access and interconnection requirements

On and after February 8, 1996, **each local exchange carrier**, to the extent that it provides wireline services, **shall provide exchange access**, information access, and exchange services for such access **to interexchange carriers** and information service providers **in accordance with the same** equal access and nondiscriminatory interconnection **restrictions and obligations (including receipt of compensation)** that apply to such carrier on the date immediately preceding February 8, 1996, under any court order, consent decree, or regulation, order, or policy of the Commission, **until such restrictions and obligations are explicitly superseded by regulations** prescribed by the Commission after February 8, 1996. During the period beginning on February 8, 1996, and until such restrictions and obligations are so superseded, such restrictions and obligations shall be enforceable in the same manner as regulations of the Commission.

## Local Competition Order ¶ 30

**¶ 30. Nothing in this Report and Order alters the collection of access charges paid by an interexchange carrier under Part 69** of the Commission's rules, when the incumbent LEC provides exchange access service to an interexchange carrier, either directly or through service resale.

## Local Competition Order ¶ 1043

¶ 1043. [1] As noted above, CMRS providers' license areas are established under federal rules, and in many cases are larger than the local exchange service areas that state commissions have established for incumbent LECs' local service areas. [2] We reiterate that traffic between an incumbent LEC and a CMRS network that originates and terminates within the same MTA . . . is subject to transport and termination rates under section 251(b)(5), rather than interstate or intrastate access charges. [3] **Under our existing practice**, most traffic between LECs and CMRS providers is not subject to interstate access charges **unless it is carried by an IXC**, with the exception of certain interstate interexchange service provided by CMRS carriers, such as some 'roaming' traffic that transits incumbent LECs' switching facilities, which is subject to interstate access charges. [4] Based on our authority under section 251(g) to preserve the current interstate access charge regime, we conclude that the new transport and termination rules [i.e., reciprocal compensation] should be applied to LECs and CMRS providers so that CMRS providers continue not to pay interstate access charges for traffic that currently is not subject to such charges, and are assessed such charges for traffic that is currently subject to interstate access charges.

[Sentence numbering added; footnotes omitted]



## TSR Wireless Order ¶ 31

¶ 31. Section 51.703(b) concerns how carriers must compensate each other for the transport and termination of calls. It does not address the charges that carriers may impose upon their end users. Section 51.703(b), when read in conjunction with Section 51.701(b)(2), requires LECs to deliver, without charge, traffic to CMRS providers anywhere within the MTA in which the call originated, with the exception of RBOCs, which are generally prohibited from delivering traffic across LATA boundaries. MTAs typically are large areas that may encompass multiple LATAs, and often cross state boundaries. Pursuant to Section 51.703(b), a LEC may not charge CMRS providers for facilities used to deliver LEC-originated traffic that originates and terminates within the same MTA, as this constitutes local traffic under our rules. **Such traffic falls under our reciprocal compensation rules if carried by the incumbent LEC, and under our access charge rules if carried by an interexchange carrier.**<sup>105</sup> This may result in the same call being viewed as a local call by the carriers and a toll call by the end-user. For example, to the extent the Yuma-Flagstaff T-1 is situated entirely within an MTA, does not cross a LATA boundary, and is used solely to carry U S West-originated traffic, U S West must deliver the traffic to TSR's network without charge. However, nothing prevents U S West from charging its end users for toll calls completed over the Yuma-Flagstaff T-1. Similarly, section 51.703(b) does not preclude TSR and U S West from entering into wide area calling or reverse billing arrangements whereby TSR can "buy down" the cost of such toll calls to make it appear to end users that they have made a local call rather than a toll call. Should paging providers and LECs decide to enter into wide area calling or reverse billing arrangements, nothing in the Commission's rules prohibits a LEC from charging the paging carrier for those services.

n. 105. **Local Competition Order, 11 FCC Rcd at 16016-17 [¶ 1043].**

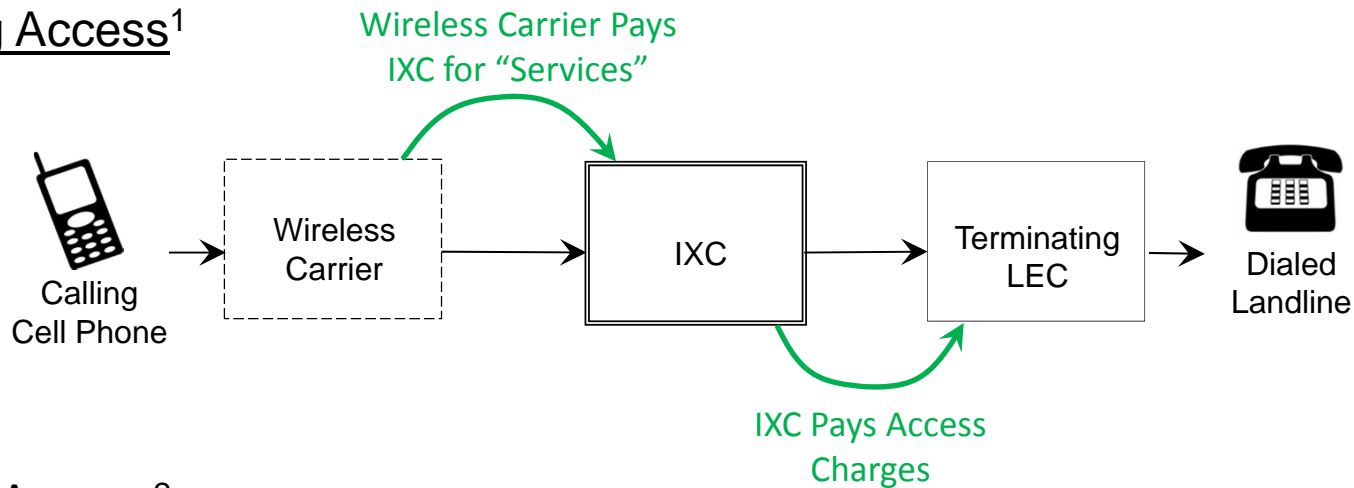
[Footnotes other than n. 105 omitted]

Citation: *TSR Wireless, LLC v. US West Commc'ns, Inc.*, File Nos. E-98-13, et al., Mem. Op. & Order, 15 FCC Rcd. 11166, ¶ 31 (rel. June 21, 2000)

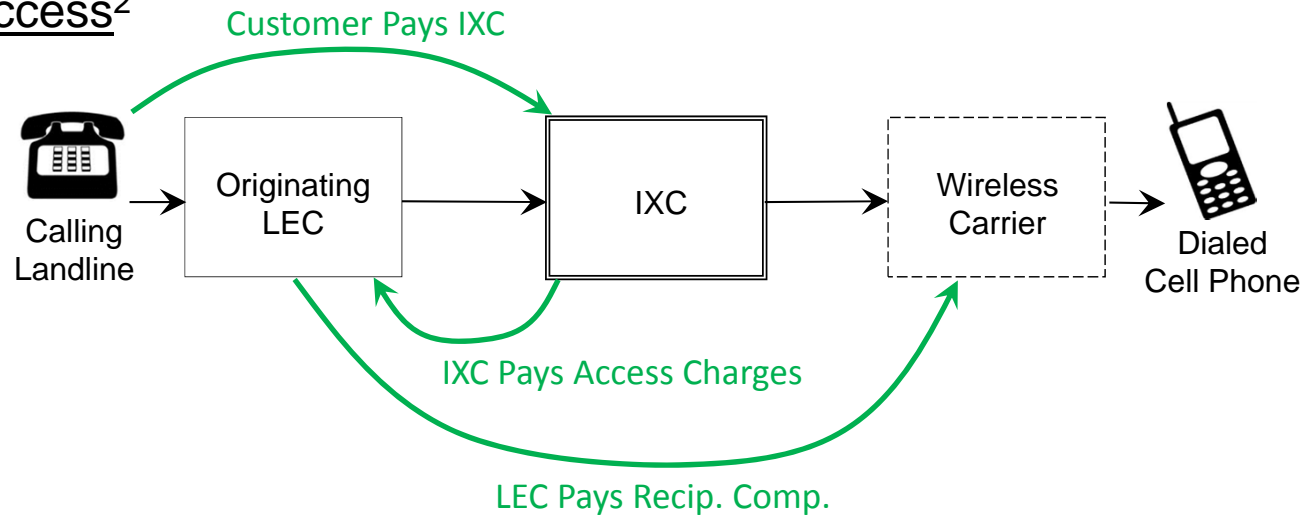
# IXCs Pay Access On IntraMTA Calls

## Alma Case

### Terminating Access<sup>1</sup>



### Originating Access<sup>2</sup>

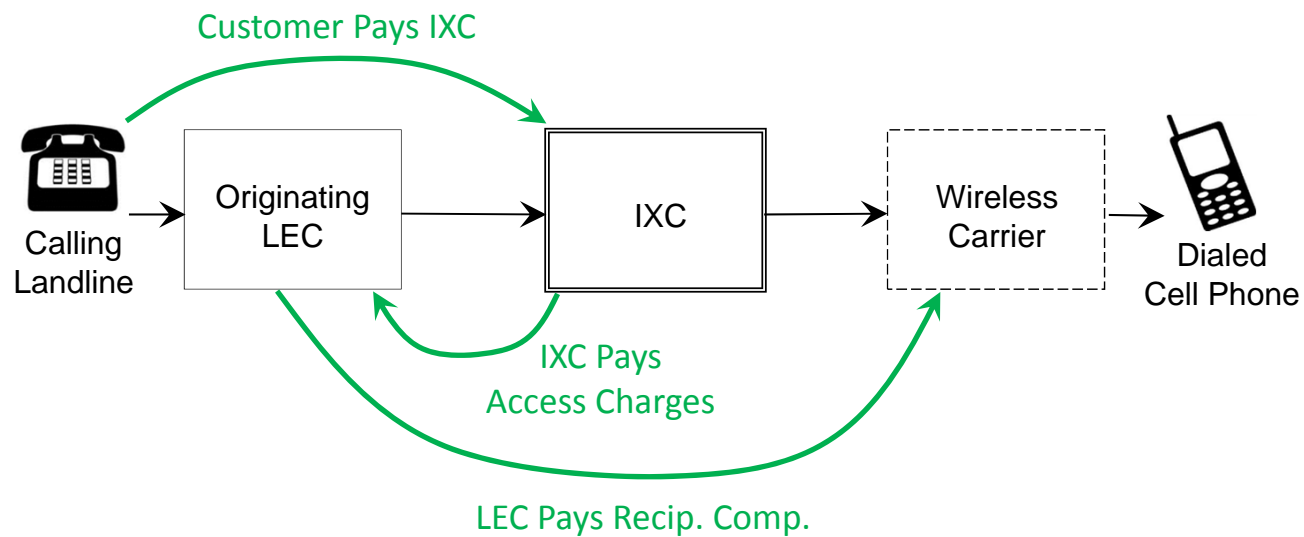


1. Source: *Alma v. Mo. PSC* (490 F.3d at 622); Alma District Court Brief, at \*15; T-Mobile District Court Brief, at \*2 n.3 (Def. Mot to Dismiss, at 30 n.19)

2. Source: Alma District Court Brief, at \*15; T-Mobile District Court Brief, at \*2 n.3; Alma Appellate Brief, at \*20 (Def. Mot. to Dismiss, at 30 n.19)

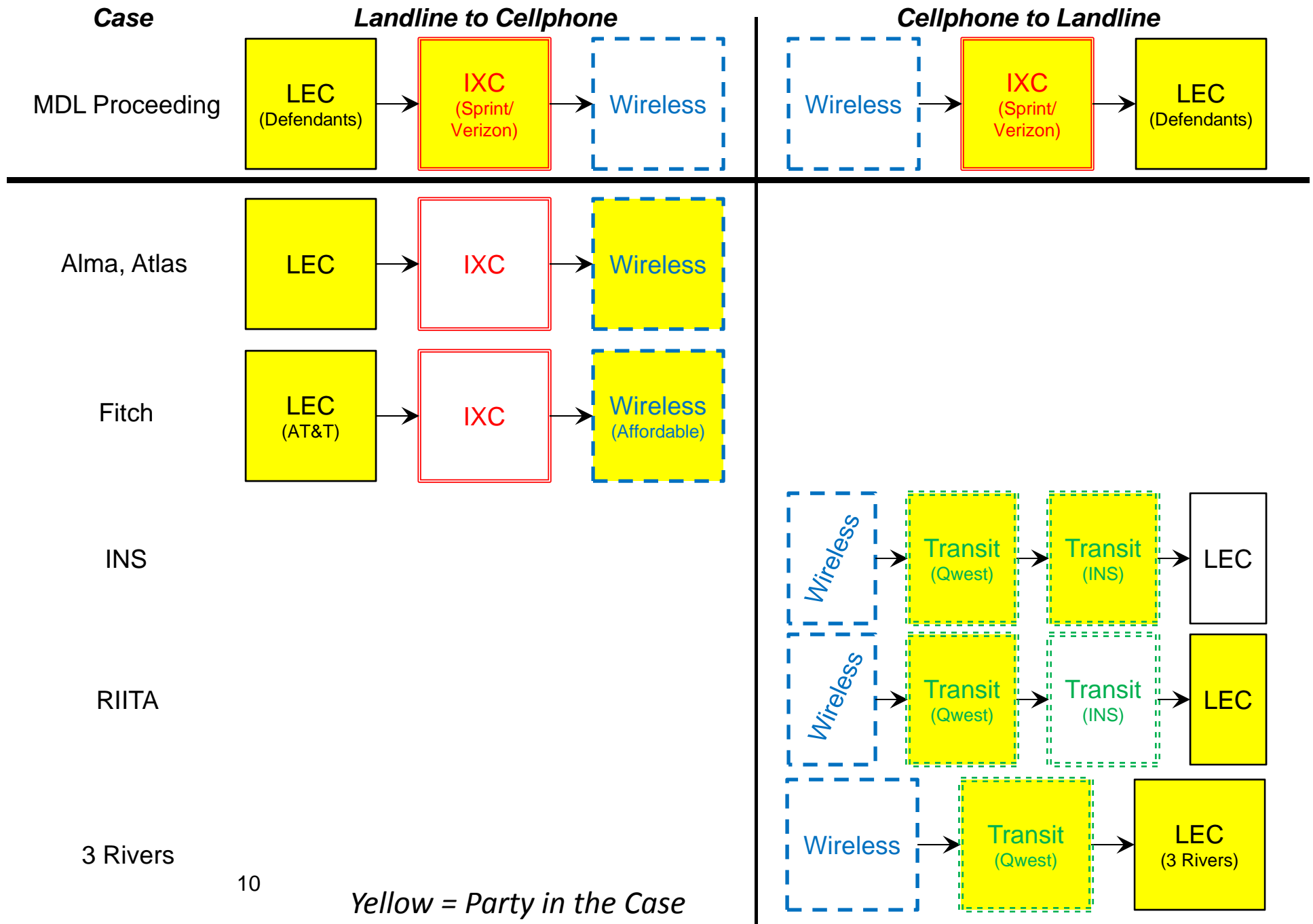
# IXCs Pay Access On IntraMTA Calls

## Atlas Case



Source: Sprint Spectrum Appellate Brief, at \*9, \*37 (Def. Mot. to Dismiss, at 31; Def. Reply, at 10-11)

# Carriers, Parties And Call Flows In Various IntraMTA Cases



# Regulation—47 C.F.R. §§ 51.701(a) & 51.703(b) (1996)

## Subpart H—Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic

### §51.701 Scope of transport and termination pricing rules.

(a) The provisions of this subpart apply to reciprocal compensation for transport and termination of local telecommunications traffic between LECs and other telecommunications carriers.

### §51.703 Reciprocal compensation obligation of LECs.

(b) A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network.